

**MS Notes from CZARA update to Board of Forestry by Richard Whitman
2:15 -2:35 p.m. Weds March 4, 2015**

Going back to 1998 when NOAA and EPA gave conditional approval to Oregon for its coastal nonpoint water quality management measures they identified a series of areas the state needed to work on to get final approval. 17 years ago.

It's not just Oregon, they have done this with many other coastal states around the country. What makes Oregon different is that NOAA and EPA were sued, and they were forced to make a final decision. In other states they are allowed to continue working with states.

Oregon has been submitting updates etc. since. At this point:

>state's program for septic systems and urban stormwater have been satisfactorily resolved.

>only management measures for forestry and nonpoint source pollution

They are working now in close communication with NOAA and EPA on 4 areas

1. Small and medium fish bearing streams a.k.a. the RipStream Rulemaking. The underlying issue is measures that will assure water quality standards are begin met.

Then he added (almost as an afterthought) that there is "also some reference to non-fishbearing streams but the scope of that is a matter of ongoing discussion with NOAA and EPA."

2. Forest roads – to ensure that

Problem is not with current standards, but how Oregon deals with legacy roads which don't really come under the regulatory jurisdiction of the Dept or Board unless rebuilt or reconstructed. They are looking for a more comprehensive approach to inventorying legacy roads, not necessarily a regulatory program at all.

3. Areas of high landslide risk. They are concerned that additional programs either regulatory or non-regulatory are needed to address the risk of sedimentation from these areas. Details around a program for inventorying these areas, then addressing them on an operation by operation basis.
4. Aerial application of herbicides. This is a complicated area. Fed requirements are in flux because of EPA/NOAA work on FIFRA. Very complex to determine what the state should do and what the federal government is doing.

Plan:

- Talk to EPA and NOAA at the highest levels
- They want to create a workplan to engage with Oregon over a period of years.
- Oregon hasn't agreed to this but is discussing possibilities
- Main thing that happens now, or could happen eventually, is that NOAA and EPA would cut off funding to DLCD and DEQ to deal with coastal nonpoint water quality issues.
- In my mind the CZARA piece is only one of a number of factors that are leading to discussions between the state and federal agencies. Also status of coastal coho, Elliott and NW state forests, BLM plan revisions are all "swirling in the same pot" – private, state and federal lands.
- Not in a position to say where Governor Brown is headed on all this; as soon as have some initial decisions made on how to approach this they will include forest landowners "as well as other interests" to work through these things in as collaborative a manner as possible.
- Advice to Board is to keep going on Ripstream. No immediate reason to change anything because of this decision, it is an important part of this discussion.

Questions and Answers:

Q Gary Springer: We had what was supposed to be a collaborative work group back in 1998 when NMFS and EPA came to the table with a prescriptive proposal and blew up the process. Landowners went out to map the recommendations and it looked like about 40% of the land base would be taken out of production. Kitzhaber wrote a pointed letter about that, saying that it took more than would for an HCP. He sees a lot of things that remind him of that in the federal disapproval decision document. If we are supposed to put something together by January 17, how is that going to work?

A Whitman: in terms of the science, there is a lot more now than there was then, and he thinks it is helpful and is not the way it was portrayed in that decision document. If there is a path forward, if we are going to have additional regulatory or non-regulatory programs the burden of impact is going to have to be shared.

If there is an effort to ram this through in a regulatory fashion it is going to hit the same wall that it did then.

The federal agencies are significantly more open to a non-regulatory approaches than they were in 1998. Opening to proceed in a more collaborative fashion. An opportunity. Interested in trying to see if there is a “foundation for a second effort” on this. It’s been 17 years so maybe it’s time to try again.

Q SA: The decision said if we rely on non regulatory what the three points are that would have to be addressed. Seems like maybe we have failed at this in the past.

A RW: There is more experience with these types of approaches that there were. Now we have the PECE policy. Non-regulatory is perfectly acceptable if there is monitoring to determine whether they are having the desired outcome, and something laid out in advance to ensure the desired outcome, also either regulatory or non-regulatory. He thinks there is significant interest in non-regulatory approaches with the agencies and some stakeholders. How can we dovetail together some changes to the regulatory system with non-regulatory measures that would reduce the economic burden to landowners.

RW: wants to be clear that the loss of funding is not a driver. It’s not something to sneeze at but it’s not alone going to force the state to do something (it doesn’t want to do otherwise).

Q SA: are we going to get the funding next year? When does that happen?

RW: doesn’t go away immediately, even the next fiscal year. We have a little bit of time to work on this.